Case 23-11101-mdc Doc 19 Filed 06/26/23 Entered 06/26/23 15:15:56 Desc Main Document Page 1 of 3

UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF PENNSYLVANIA

In re:

CYNTHIA V. STOWE : CASE NO. 23-11101-MDC

:

CITADEL FEDERAL : CHAPTER 13

CREDIT UNION :

MOVANT, : 11 U.S.C. § 362

:

V. :

CYNTHIA V. STOWE : August 1, 2023, 10:30a.m.

DEBTOR, : Courtroom # 2

KENNETH E WEST, TRUSTEE ADDITIONAL RESPONDENT

MOTION FOR RELIEF OF CITADEL FEDERAL CREDIT UNION FROM THE AUTOMATIC STAY UNDER SECTIONS 362 (d)(1) AND 1301 TO PERMIT MOVANT TO TAKE ACTION WITH REGARD TO REAL PROPERTY LOCATED AT 919 BROOKE AVENUE SECANE, PA 19018

Citadel Federal Credit Union, (hereinafter "Movant"), by and through its undersigned counsel, hereby moves this Court, pursuant to 11 U.S.C. § 362 (d)(1) and § 1301 to terminate the automatic stay and grant relief to allow Movant to enforce its rights under the Mortgage and foreclose and in support thereof avers as follows:

- 1. Cynthia V. Stowe ("Debtor"), Respondent herein, filed a bankruptcy petition under Chapter 13 of the Bankruptcy Code, on April 17, 2023, under Bankruptcy No. 23-11101-MDC. The Debtor and her spouse have continued to be in possession of the Property located at 919 Brooke Avenue, Secane, Pennsylvania, 19018
 - 2. Debtor filed her Chapter 13 Plan on April 17, 2023.

- 3. In Debtor's Chapter 13 Plan, Debtor states that she will be making the post-petition payments directly to Movant.
- 4. Movant is a secured creditor by reason of Debtor having executed and delivered a mortgage on the Property to Citadel Federal Credit Union on October 4, 2006, which mortgage is recorded in the Office of the Recorder of Deeds of Delaware County on November 28, 2006 as Document No. 12006108937; Book: 03966 P. 0207. A copy of the Mortgage is attached hereto as Exhibit "A."
- 5. Movant seeks relief from the automatic stay to assert all of its rights pursuant to its mortgage and applicable non-bankruptcy law against the Debtor's Real Property.
- 6. Movant lacks adequate protection in that the Debtor failed to make regular timely monthly mortgage payments in accordance with the terms of the Mortgage and Note.
- 7. As of the date of the filing of the bankruptcy on April 17, 2023 Movant was the Holder of the secured claim against the Debtor in the amount of \$70,570.07 shown in Movant's Proof of Claim. *See Claim No. 3-1 on the Claims Register*.
- 8. On April 17, 2023, the total arrearages owed through the Plan were \$41,600.06. *See Claim No. 3-1*.
- 9. Debtor has not made the regular monthly post-petition outside the plan for the months of May 2023 and June 2023.
 - 10. The total post-petition monthly mortgage payments are as follows:

05/15/2023	06/15/20203	@\$612.24 P/M	\$ 1,224.48
		Attorney's fee	650.00
		Filing fee	181.00
		TOTAL DUE	\$ 2,055.48

11. As a result of Debtor's default and failure to make payments or to otherwise fail to adequately provide for Movant, Movant is not adequately protected and is entitled to relief.

Case 23-11101-mdc Doc 19 Filed 06/26/23 Entered 06/26/23 15:15:56 Desc Main Document Page 3 of 3

12. Movant also seeks relief from the automatic stay under FRBP 1301(c) to proceed

with its state court rights pursuant to the terms of the subject mortgage.

13. If Movant is not permitted to foreclose its mortgage on said premises, it may

suffer irreparable injury, loss and damage.

WHEREFORE, Movant prays that upon final hearing of this Motion, the automatic stay

pursuant to 11 U.S.C. Sections 362(d)(1) and 1301 be modified to permit Movant to exercise

its rights pursuant to the Mortgage and Note and applicable state law with regard to the Real

Property; that upon entry of an Order Granting Relief Movant will no longer be required to file

and serve the Notice of Payment Change and or Notices of Post-Petition Fees, Expenses and

Charges as required by FRBP 3002.1(b) and FRBP 3002.1(c); that Rule 4001(a)(3) be waived;

and requests that the relief granted by this motion survive the conversion of this case to a case

under any other Chapter of the Bankruptcy Code and that it have such other and further relief

as is just.

VAUGHAN BAIO & PARTNERS

By: /s/M.

/s/ M. Jacqueline Larkin

M. Jacqueline Larkin, Esq.

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Date: June 26, 2023

3